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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,105	11/14/2003	Norberto Oscar Gomez	T4289PC-13136US01	8223
181	7590	11/19/2008		
MILES & STOCKBRIDGE PC 1751 PINNACLE DRIVE SUITE 500 MCLEAN, VA 22102-3833			EXAMINER	
			NGO, LIEN M	
			ART UNIT	PAPER NUMBER
			3754	
			NOTIFICATION DATE	DELIVERY MODE
			11/19/2008	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ipdocketing@milesstockbridge.com  
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<b>Office Action Summary</b>	<b>Application No.</b> 10/712,105	<b>Applicant(s)</b> GOMEZ ET AL.	
	<b>Examiner</b> LIEN TM NGO	<b>Art Unit</b> 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 September 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-8,10-18,21,23-29,43,45,48,49 and 51 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-8, 10-18, 21, 23-29, 43, 45, 48, 49 and 51 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 8, 10-18, 21, 23-27, 43, 45, 48, 49 and 51 are rejected under 35 U.S.C. 102(b) as being anticipated by Leoncavallo et al. (5,603,436). Leoncavallo et al. disclose, in figs.3 and 4, a dispenser comprising a dispenser sidewall 58 molded as one piece; a cap 20 adapted to slidably engage a receiver piece 58 with a push-pull motion and connected to a first end of the dispenser sidewall, the cap comprising: a cap sidewall with an inner surface and defining a hollow space within the cap; a cap ring on the inner surface of the cap; a cap opening; a top extending from the cap opening to the cap sidewall; a post 44; a support structure 46 supporting the post and defining a gap for allowing fluid movement from the hollow space of the cap into the central cap opening, the support structure contacting an inner surface of the top, wherein an outline of the support structure forms a passageway between the cap opening and the hollow space within the cap; and the receiver piece having a receiver sidewall; a receiving ring formed around an outer surface of the receiver sidewall, the receiving ring adapted to lock with the cap ring; and a receiver opening for receiving the cap post, the opening substantially cylindrical and extending through the receiver, wherein said cap ring forms a sealing surface with a contact surface of the receiver piece.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 and 3-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leoncavallo et al. in view of Stull (3,439,842) or Greatbatch (5,609,276).

Leoncavallo et al. do not teach the post being solid.

Stull or Greatbatch teach, a post of a dispensing cap being solid.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Leoncavallo et al. the post of the dispensing cap being solid, as taught by Stull or Greatbatch, in order to enhance the plug tight of the post in the closed position.

5. Claims 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leoncavallo et al. in view of Cargile et al. (6,673,301).

Cargile et al. teach, in figs. 2-4, a dispenser sidewall comprising a dome 26 and a hinge 20.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Leoncavallo et al. dispenser having a sidewall comprising a dome and a hinge, as taught by Cargile et al., in order to provide a

retractable end wall for a tamper indicating covering, and to be free standing when it is in inverted position.

***Response to Arguments***

6. Applicant's arguments with respect to claims 1, 3-8, 10-18, 21, 23-29, 43, 45, 48, 49 and 51 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LIEN TM NGO whose telephone number is 571-272-4545. The examiner can normally be reached on Monday through Friday from 8:30 AM -6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, KEVIN SHAVER can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LIEN TM NGO/  
Primary Examiner, Art Unit 3754

November 17, 2008